

**UNITED STATES OF AMERICA  
DISTRICT COURT OF RHODE ISLAND**

**United States of America**

**V.**

**Case no: 14-cr-00016-WES**

**Philip DeBartolo**

**MEMORANDUM IN SUPPORT OF DEFENDANT’S MOTION FOR COMPASSIONATE  
RELEASE**

**INTRODUCTION**

Philip DeBartolo was sentenced by this court to serve 120 months for narcotics and weapons offenses. He has approximately two years and three months left to serve. He has stage three kidney disease, hypertension, and a host of associated ailments. Because he lives FCI Fort Dix, where COVID-19 is inside the walls, he is at very high risk of contracting COVID-19. DeBartolo has applied to the Bureau of Prisons for compassionate release and been denied.

Now, DeBartolo requests the Court modify his sentence to time served and release him to supervised release or home confinement in light of the extraordinary and compelling health risks stemming from the worldwide coronavirus pandemic.

**FACTS**

**A. THE CORONAVIRUS**

The Coronavirus pandemic is an unprecedented event that has affected every part of American life. As of May 26, 2020 there were 1,662,414 reported cases in the U.S. with 98,261 known deaths across 50 states.<sup>1</sup> It is highly infectious and spreading fast, prompting quarantines

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<sup>1</sup> See generally, information from the U.S. Centers for Disease Control (“CDC”) at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

and travel restriction around the world. A state of emergency has been declared in New Jersey where FCI Ft. Dix is located and the population has been told to stay at home and only travel for essential needs.<sup>2</sup>

In particular, people with hypertension seem to be at higher risk if they are infected by the coronavirus and contract the resultant COVID-19 disease.<sup>3</sup> “COVID-19 is a new disease and there is limited information regarding risk factors for severe disease. Based on currently available information and clinical expertise, older adults and people of *any age who have serious underlying medical conditions* might be at higher risk for severe illness from COVID-19.”<sup>4</sup>

According to the CDC, there is no vaccine or cure for COVID-19. The best way to avoid the illness is to avoid exposure by avoiding close contact with other people.<sup>5</sup>

## **B. PHILIP DEBARTOLO**

### **1. Personal Details**

The defendant Philip DeBartolo (“DeBartolo”) is serving a 10 year sentence for various firearms and narcotics offenses stemming from his efforts to sell three firearms and a small amount of marijuana to an undercover agent. DeBartolo pled guilty. He is scheduled for release

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<sup>2</sup> See, NJ Governor Phil Murphy executive orders at [https://nj.gov/infobank/eo/056murphy/approved/eo\\_archive.html](https://nj.gov/infobank/eo/056murphy/approved/eo_archive.html)

<sup>3</sup> See, Huang, C., Wang, Y., Li, X., Ren, L., Zhao, J., Hu, Y., Zhang, L., Fan, G., Xu, J., Gu, X. and Cheng, Z., 2020. Clinical features of patients infected with 2019 novel coronavirus in Wuhan, China. *The lancet*, 395(10223), pp.497-506. (noting a significant prevalence of hypertension in people hospitalized for COVID19.) See also, “Those with high blood pressure are at a greater risk for Covid-19. Here's what you need to know to protect yourself”. April 17, 2020. <https://www.cnn.com/2020/04/17/health/blood-pressure-coronavirus-wellness/index.html>.

<sup>4</sup> See, The Centers for Disease Control Coronavirus Information (“CDC”) at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (emphasis added).

<sup>5</sup> See, CDC Coronavirus prevention information at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

in September of 2022.

As documented in his Bureau of Prisons (“Bureau”) medical record, DeBartolo suffers from stage three kidney disease and hypertension along with various related ailments including anemia, hyperlipidemia, hematuria, and pre-diabetes.<sup>6</sup> DeBartolo is designated as a Care Level II inmate.<sup>7</sup>

DeBartolo’s medical condition makes him more vulnerable to the most serious effects of COVID19. Upon information and belief, DeBartolo has been informed by a BOP nephrologist that he should avoid getting sick because illness will exacerbate the seriousness of his kidney disease and accelerate kidney function degradation.<sup>8</sup>

On April 15, 2020, DeBartolo applied to the Bureau for compassionate release. See “Request for Release to Home Confinement” attached as Exh. A. On April 17, 2020, the Bureau denied his request. See “Inmate Request to Staff Response” attached as Exh. B.

## **2. DeBartolo’s Living Situation**

Federal Correctional Institution (“FCI”) Fort Dix is a converted military base located in New Jersey. It is the largest federal prison in America with a capacity of up to 5,000 inmates.

Upon information and belief, the facility is divided into two sides. There is a minimum security

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<sup>6</sup> See generally, “DeBartolo Medical Record” which will be submitted under separate cover and under seal to the Court.

<sup>7</sup> “Care Level 2 inmates are stable outpatients who require clinician evaluations monthly to every 6 months. Their medical and mental health conditions can be managed through routine, regularly scheduled appointments with clinicians for monitoring. Enhanced medical resources, such as consultation or evaluation by medical specialists, may be required from time to time.” See, “CARE LEVEL CLASSIFICATION FOR MEDICAL AND MENTAL HEALTH CONDITIONS OR DISABILITIES” Bureau of Prisons, May 2019. [https://www.bop.gov/resources/pdfs/care\\_level\\_classification\\_guide.pdf](https://www.bop.gov/resources/pdfs/care_level_classification_guide.pdf)

<sup>8</sup> All statement and facts attributed to DeBartolo were collected by counsel from DeBartolo in telephone conversations. Due to the visitation limitations and the fact that time is of the essence, DeBartolo has not submitted an affidavit.

facility (the “Low”) which houses the majority of inmates and there is a minimum security satellite camp.

The Low consists of a number of buildings. Inside each building, on each floor, there are a number of rooms situated along a central hallway that runs the length of the building. Most rooms house 12 inmates with four sets of three-man bunk beds on each side of the room. There are a limited number of two-man rooms. Each floor has two communal bathrooms located in the center of the hallway. There are no locks on the doors and inmates are free to travel anywhere inside their assigned building, including other floors.

DeBartolo lives in building 5852. DeBartolo estimates that there are 50-60 inmates on his floor. DeBartolo is housed in a 12 man unit with 5 other men. He is not able to social distance from his fellow inmates at any time because of the architectural design of the Low’s housing units.

Meals are served in another building known as the commissary. All the inmates of building 5852 walk together to the commissary to eat meals. They eat together and have no opportunity to social distance during meal times.

### **3. The coronavirus is present at Fort Dix**

As of May 26, 2020, the Low had 2,660 inmates and Ft. Dix had 22 cases of COVID-19.<sup>9,10</sup> DeBartolo is aware of two inmates who were removed from his building and moved to a COVID-19 quarantine space adjacent to the building 5852. DeBartolo reports that he

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<sup>9</sup> See, Bureau of Prisons FCI Ft. Dix, <https://www.bop.gov/locations/institutions/ftd/> (last visited May 26, 2020).

<sup>10</sup> See, Bureau of Prisons Covid 19 Information, <https://www.bop.gov/coronavirus> (last visited May 26, 2020).

has observed BOP staff conversing in close contact with quarantine staff and then walking, unmasked, in his building in and amongst the inmates.

DeBartolo reports that while social distancing is Bureau policy, it is not enforced or observed widely in his building. Correctional officers do not wear masks and very few inmates wear masks. Additionally, because of the tight confines of the building, it is impossible to effectively social distance in his building.

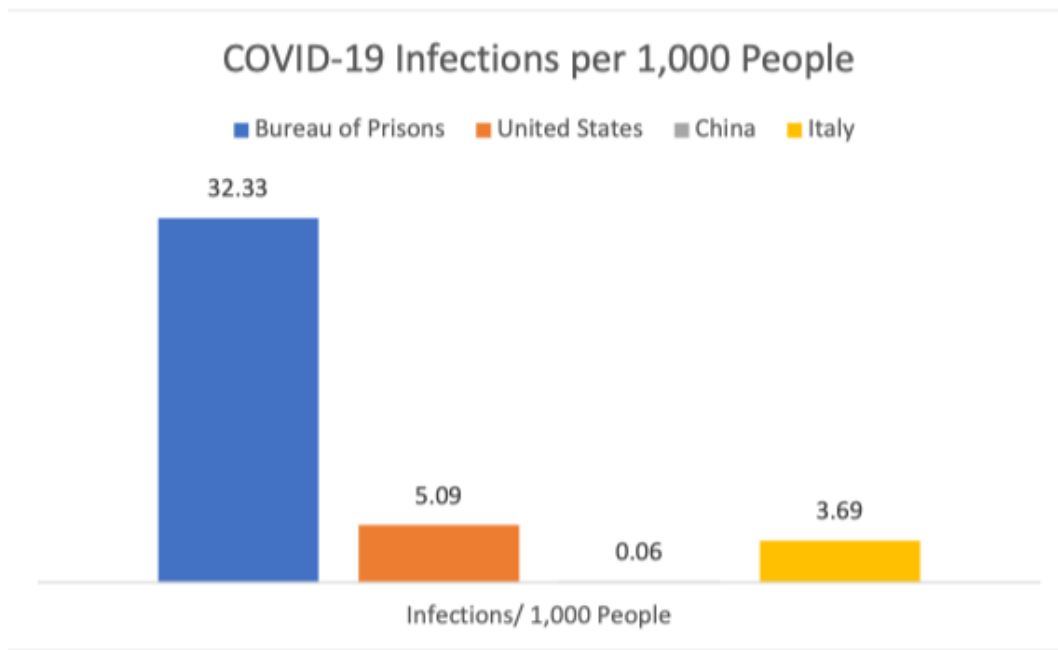
### **C. CORONAVIRUS AND THE BUREAU OF PRISONS**

The coronavirus is inside Bureau of Prison facilities beyond Ft. Dix. Throughout the course of the pandemic's spread in the U.S. the BOP has struggled to cope with the infection. The rate of infection in BOP facilities has skyrocketed beyond the overall rate in the U.S.

Media reports throughout April and May paint a picture of an agency unable to adapt.<sup>11</sup> As of May 24, 2020 the BOP had a total of 5,350 cases with 59 deaths. The charts attached as Exh. C tell the story of an agency experiencing increases in infections at a rate far and away higher than the national average.

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<sup>11</sup> "Barr Expands Early Release of Inmates at Prisons Seeing More Coronavirus Cases", New York Times, April 3, 2020, <https://nyti.ms/2yz0vft>; "More than 70% of tested inmates in federal prisons have coronavirus" Boston Globe, April 29, 2020, <https://www.bostonglobe.com/2020/04/29/nation/more-than-70-tested-inmates-federal-prisons-have-coronavirus/>



Excerpt from Exh. C.

### APPLICABLE LAW

18 U.S.C. § 3582(c)(1)(A)(i) provides for the modification of a prison sentence by the court for “extraordinary and compelling reasons.” Prior to any court action, the petitioner must have first applied to the Bureau of Prisons to file a motion for release with the court on his or her behalf. Id. If the Bureau denies the application and the petitioner has exhausted his or her administrative remedies, the court may take action. Id. The court may also take up the matter if the petitioner has applied to the Bureau for release and the Bureau has failed to act within 30 days of receipt of the application. Id.

The COVID-19 pandemic has prompted this Court to release defendants who have medical conditions that make them particularly vulnerable to the virus and its sometimes fatal consequences. See, United States v. Monroe, No. 1:20-cr-00011-JJM-LDA-1, Dkt. No. 25 (D.R.I. April 6, 2020) (granting release pending sentencing over government objection); United

States v. Leon, No. 1:19-cr-00051, Dkt. No. 28 (D.R.I. April 20, 2020) (releasing defendant with asthma pending sentencing on mandatory minimum charge, over government objection); United States v. Jourdain, No. 1:19-cr-63, Dkt. No. 30 (D.R.I. April 24, 2020) (releasing asthmatic defendant facing 2 year mandatory minimum pending sentencing, with assent from government).

## **ARGUMENT**

It is axiomatic that close contact with other people simply cannot be avoided in a correctional institution. Accordingly, the risk of infection is higher for those who are detained. Clearly, the data in Exh C illuminates this hard fact.

Given his particular vulnerability to the disease, DeBartolo is at much higher risk than the average prisoner of severe and even fatal consequences if he is exposed to the coronavirus and contracts COVID-19. Because of this, the Court should modify his sentence, release him from FCI Ft. Dix, and place him on supervised release or home confinement.

Moreover, DeBartolo has served a substantial portion of his sentence. Out of a 120 month sentence, he has served approximately 93 months. Arguably the statutory requirements of 18 U.S.C. § 3553 requiring a sentence to provide for punishment, respect for the law, and deterrence have been fulfilled.

DeBartolo has served enough time. Every day he is kept in Bureau custody is one more opportunity to become infected and possibly die. Given the extraordinary event of the pandemic, the staggering death toll across the nation and inside the Bureau's prisons, and his own medical condition, DeBartolo requests that the Court recognize the profound risks to his safety posed by continued incarceration and release him from detention.

### **CONCLUSION**

In accordance with the facts and reasoning outlined *supra*, the defendant requests this Court grant his request and modify his sentence to time served forthwith.

Respectfully submitted,  
Philip DeBartolo  
By his attorney,

/s/ Jason Knight

Jason Knight, Bar # 7329  
1 Turks Head Place Suite 1440  
Providence RI 02903  
(401) 865-6075  
Jason.knight@jasonknightlaw.com  
Date: May 29, 2020

### **CERTIFICATION**

I certify that on May 29, 2020, I served the above document on AUSA Milind Shaw via the Court's Case Management/Electronic Case Files (CM/ECF) system.

/s/ Jason Knight



Exh. A

Warden

Ortiz

Date: 4/15/20

Re: Request for Release to Home Confinement pursuant to 18 U.S.C. § 3624(c)(2) for inmate Philip DeBartolo, Reg. No. 09012 070

Dear Warden,

I hereby request that you that you transfer me to home confinement for the rest of my sentence pursuant to 18 U.S.C. § 3624(c)(2), section 12003(b)(2) of the CARES Act, and Attorney General Barr's April 3, 2020 Memorandum for the Director of the Bureau of Prisons, "Increasing Use of Home Confinement at Institutions Most Affected by COVID-19."<sup>1</sup>

Generally applicable support for my request is outlined below. In addition, the following factors specific to me (indicated by a check mark below) demonstrate that I should be transferred to home confinement:

☐ I am due to be released relatively soon, on \_\_\_\_\_;

☒ The virus has already been detected in my facility;

☐ I am over the age of 65;<sup>2</sup>

☐ I am over the age of 50;<sup>3</sup>

<sup>1</sup> Attorney General Memorandum for the Director of Bureau of Prisons, "Increasing Use of Home Confinement at Institutions Most Affected by COVID-10" (April 3, 2020), available at <https://www.justice.gov/file/1266661/download> (last visited April 6, 2020).

<sup>2</sup> According to the Centers for Disease Control and Prevention (CDC), "[b]ased on currently available information and clinical expertise, older adults and people of any age who have serious underlying medical conditions might be at higher risk for severe illness from COVID-19. Based upon available information to date, those at high-risk for severe illness from COVID-19 include" people aged 65 years and older, people who live in a nursing home or long-term facility, and people with the conditions listed above." <https://www.cdc.gov/coronavirus/2019-ncov/hcp/underlying-conditions.html> (last visited April 2, 2020). "Many conditions can cause a person to be immunocompromised, including cancer treatment, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications." *Id.*

<sup>3</sup> See notes 6-10 and accompanying text, *infra*.

Request re COVID-19: Inmate DeBartolo, Reg. No. 09012-070  
Page 2

☒ I have the following medical condition(s), which place me at heightened risk for infection or severe illness, according to the CDC:

☐ chronic lung disease, specifically \_\_\_\_\_

☐ moderate to severe asthma;

☐ heart disease with complications, specifically \_\_\_\_\_

☐ immunocompromised because of: \_\_\_\_\_

☐ severe obesity (body mass index [(BMI)  $\geq 40$ ];

☐ diabetes;

☒ renal failure; Stage 3 Kidney disease

☐ liver disease;

☐ I am pregnant;<sup>4</sup>

☒ I have another health condition that I believe could put me at higher risk of infection or make severe illness more likely, or recovery more difficult.

Stage 3 kidney disease, high blood pressure

I take the following medications because of the condition(s) I noted above:

lisinopril

☐ I was released on bond before my conviction, and I did not violate any terms of release.

<sup>4</sup> According to the CDC, although "data on COVID-19 has not shown increased risk to people who are pregnant, they "should be monitored since they are known to be at risk with severe viral illness[.] See <https://www.cdc.gov/coronavirus/2019-ncov/hcp/underlying-conditions.html> (last visited Apr. 3, 2020).

Request re COVID-19: Inmate DeBa-1/L Reg. No. 09612070  
 Page 4

and Research Centre in London reports that 45.8% of those between the ages of 50-69 admitted to critical care died in critical care.<sup>7</sup> Data from China reflects that people over the age of fifty face a greater risk of serious illness or death from COVID-19.<sup>8</sup> Moreover, public health experts agree that all incarcerated individuals "are at special risk of infection, given their living situations," and "may also be less able to participate in proactive measures to keep themselves safe;" "infection control is challenging in these settings."<sup>9</sup>

In short, the virus puts every incarcerated individual or BOP staff-member at significant risk of infection. This also places the general community at risk because every infection can lead to several more, including those in the community who come into contact with BOP staff who may not show any sign of their infection yet still be contagious.<sup>10</sup> Each additional infection puts a further strain on medical personnel and supplies, which are already overburdened. Transferring me to home confinement will decrease the population and risk at this BOP facility, and will reduce risk of infection and strain on the surrounding community, without endangering the greater community.

I ask that you immediately consider my case for transfer to home confinement. Thank you for your consideration.

Respectfully submitted by: *Philip R. [Signature]* Date: 4/15/20

<sup>7</sup> ICNARC report on COVID-19 in critical care, ICNARC (Apr. 4, 2020), available at [file:///C:/Users/rigby/Downloads/ICNARC%20COVID-19%20report%202020-04-04.pdf%20\(2\).pdf](file:///C:/Users/rigby/Downloads/ICNARC%20COVID-19%20report%202020-04-04.pdf%20(2).pdf) (last visited Apr. 9, 2020).

<sup>8</sup> Xianxian Zhao, et al., Incidence, clinical characteristics and prognostic factor of patients with COVID-19: a systematic review and meta-analysis (March 20, 2020), available at <https://www.medrxiv.org/content/10.1101/2020.03.17.20037572v1> (last visited Apr. 9, 2020).

<sup>9</sup> "Achieving A Fair And Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence, and Other Federal, State, and Local Leaders from Public Health and Legal Experts in the United States," (March 2, 2020), at <https://bit.ly/2W9V6oS> (last visited March 31, 2020).

<sup>10</sup> "Infected but Feeling Fine: The Unwitting Coronavirus Spreaders," New York Times (March 31, 2020), available at <https://www.nytimes.com/2020/03/31/health/coronavirus-asymptomatic-transmission.html> (last visited Apr. 1, 2020); CDC, "How Coronavirus Spreads" webpage ("Some spread might be possible before people show symptoms; there have been reports of this occurring with this new coronavirus . . .").

Request re COVID-19: Inmate DeBartolo, Reg. No. 091012070  
Page 3

☐ My criminal history includes no convictions involving violence.

☐ I am serving time for my first conviction.

☐ I have had no disciplinary infractions while serving time.

☒ I have participated in the following BOP programing:

NRES, Job fairs, RDPAP, Emotional self regulation

☐ Other \_\_\_\_\_

I have a release plan. If I am released, I will:

Have a job, car, apartment, my old employer still  
wants me to work for him. My family has a car for  
me.

In the April 3 Memorandum noted above, the Attorney General formally directed that BOP “immediately review all inmates who have COVID-19 risk factors, as established by the [Centers for Disease Control and Prevention] CDC...” because he has found that COVID-19 has created emergency conditions that are “materially affecting” the functioning of the BOP. To be clear, the Attorney General thus directed the BOP to review “all at-risk inmates – not only those who were previously eligible for transfer” pursuant to § 3624(c)(2).

But conditions merit transfer to home confinement or release to even more inmates. Even those younger than 65 and/or otherwise healthy patients are not immune from infection or serious complications. According to the CDC, nearly 40% of patients hospitalized from coronavirus were 20 to 54 years old.<sup>5</sup> As of March 16, 2020, more than half of those hospitalized and nearly half of those admitted to an Intensive Care Unit were under the age of 65.<sup>6</sup> The Intensive Care National Audit

<sup>5</sup> *Younger Adults Make Up Big Portion of Coronavirus Hospitalizations in U.S.*, The New York Times (Mar. 20, 2020), at <https://www.nytimes.com/2020/03/18/health/coronavirus-young-people.html> (last visited March 31, 2020).

<sup>6</sup> *Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19) — United States, February 12–March 16, 2020*, available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm> (last visited Apr. 9, 2020).

Request re COVID-19: Inmate DeBartolo, Reg. No. 09612070  
Page 5

Reg. No. 09612070

☒ Additional arguments for my request are in pages that follow.

I have a large support system, financially, emotionally as well as for living. I don't want to be a burden to society and I fear getting ill in a 7 man room. I have children that need me with my kidney disease. I fear that the virus could undo all that was done — as far as the kidney disease stabilizing. I wasn't sentenced to death. I'm higher risk here because social distancing in prison can't be enforced. I have programmed extensively and plan to continue upon my release.

Exh. B



**DeBartolo, Philip**

Register Number: 09612-070

Unit 5852 (S)

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**INMATE REQUEST TO STAFF RESPONSE**

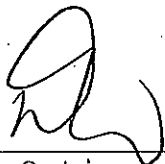
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You requested a reduction in sentence (RIS) based on concerns about COVID-19. After careful consideration, your request is denied.

Title 18 of the United States Code, section 3582(c)(1)(A), allows a sentencing court, on motion of the Director of the BOP, to reduce a term of imprisonment for extraordinary or compelling reasons. BOP Program Statement No. 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g), provides guidance on the types of circumstances that present extraordinary or compelling reasons, such as the inmate's terminal medical condition; debilitated medical condition; status as a "new law" elderly inmate, an elderly inmate with medical conditions, or an "other elderly inmate"; the death or incapacitation of the family member caregiver of the inmate's child; or the incapacitation of the inmate's spouse or registered partner. Your request has been evaluated consistent with this general guidance.

The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you, like all of us, have legitimate concerns and fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence. Accordingly, your RIS request is denied at this time.

If you are not satisfied with this response to your request, you may commence an appeal of this decision via the administrative remedy process by submitting your concerns on the appropriate form (BP-9) within 20 days of the receipt of this response.



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David E. Ortiz  
Warden

4/17/20

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Date

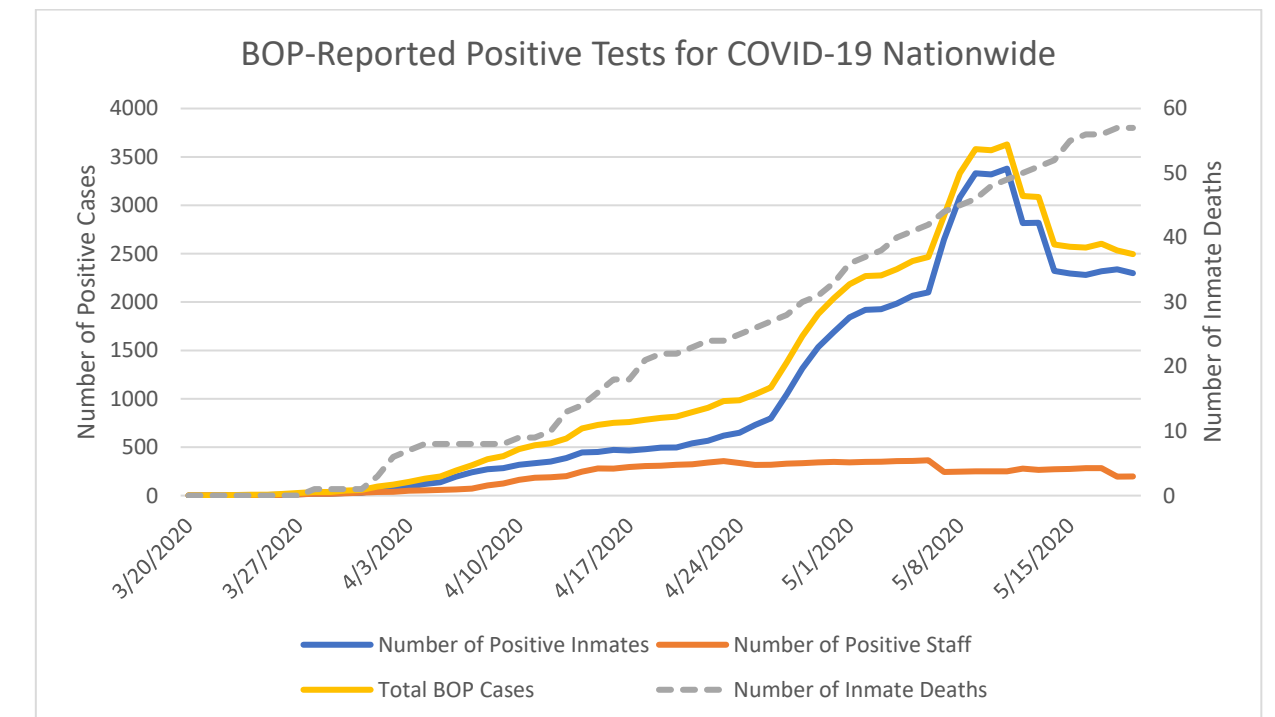


Exh. C

BOP-Reported Positive Tests for COVID-19 Nationwide<sup>1</sup>

Date	Number of Positive Inmates	Number of Positive Staff	Number of Inmate Deaths	Total BOP Cases <sup>2</sup>
3/20/2020	0	2	0	2
3/21/2020	1	2	0	3
3/22/2020	1	2	0	3
3/23/2020	3	3	0	6
3/24/2020	6	3	0	9
3/25/2020	6	3	0	9
3/26/2020	10	8	0	18
3/27/2020	14	13	0	27
3/28/2020	19	19	1	38
3/29/2020	19	19	1	38
3/30/2020	28	24	1	52
3/31/2020	29	30	1	59
4/1/2020	57	37	3	94
4/2/2020	75	39	6	114
4/3/2020	91	50	7	141
4/4/2020	120	54	8	174
4/5/2020	138	59	8	197
4/6/2020	196	63	8	259
4/7/2020	241	72	8	313
4/8/2020	272	105	8	377
4/9/2020	283	125	8	408
4/10/2020	318	163	9	481
4/11/2020	335	185	9	520
4/12/2020	352	189	10	541
4/13/2020	388	201	13	589
4/14/2020	446	248	14	694
4/15/2020	451	280	16	731
4/16/2020	473	279	18	752
4/17/2020	465	296	18	761
4/18/2020	479	305	21	784
4/19/2020	495	309	22	804
4/20/2020	497	319	22	816
4/21/2020	540	323	23	863
4/22/2020	566	342	24	908
4/23/2020	620	357	24	977
4/24/2020	649	336	25	985
4/25/2020	730	317	26	1047

4/26/2020	799	319	27	1118
4/27/2020	1046	330	28	1376
4/28/2020	1314	335	30	1649
4/29/2020	1534	343	31	1877
4/30/2020	1692	349	33	2041
5/1/2020	1842	343	36	2185
5/2/2020	1919	349	37	2268
5/3/2020	1926	350	38	2276
5/4/2020	1984	356	40	2340
5/5/2020	2066	359	41	2425
5/6/2020	2100	365	42	2465
5/7/2020	2646	244	44	2890
5/8/2020	3082	248	45	3330
5/9/2020	3330	250	46	3580
5/10/2020	3319	250	48	3569
5/11/2020	3379	250	49	3629
5/12/2020	2817	279	50	3096
5/13/2020	2820	266	51	3086
5/14/2020	2322	272	52	2594
5/15/2020	2296	275	55	2571
5/16/2020	2280	283	56	2563
5/17/2020	2319	284	56	2603
5/18/2020	2338	196	57	2534
5/19/2020	2298	198	57	2496



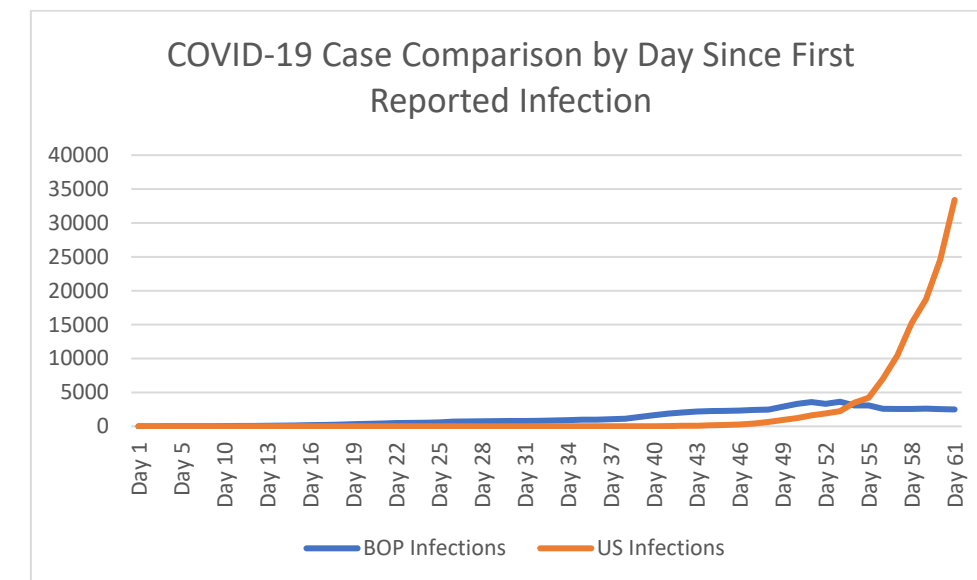
<sup>1</sup> Numbers obtained from [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) on a daily basis. There is good reason to believe that the numbers reported by the BOP understate the actual number of tested-positive cases. Compare M. Licon-Vitale, MCC Ward, and D. Edge, MDC Warden, Response to EDNY Administrative Order 2020-14 (Apr. 7, 2020) at [https://www.nyed.uscourts.gov/pub/bop/MDC\\_20200407\\_042057.pdf](https://www.nyed.uscourts.gov/pub/bop/MDC_20200407_042057.pdf) (3 positive inmates at MDC Brooklyn) with COVID-19 Cases Federal Bureau of Prisons (Apr. 7, 2020) at [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) (2 positive inmates at MDC Brooklyn).

<sup>2</sup> Includes the number of both BOP inmates and staff who have tested positive for COVID-19.

Number of Reported COVID-19 Cases in Bureau of Prisons<sup>3</sup> and the United States<sup>4</sup>, Compared by Days since First Reported Infection

Day of Known COVID-19 Case	BOP Date	BOP Infections	U.S. Date	U.S. Infections
Day 1	3/20/2020	2	1/22/2020	1
Day 2	3/21/2020	3	1/23/2020	1
Day 4	3/23/2020	6	1/25/2020	2
Day 5	3/24/2020	9	1/26/2020	5
Day 7	3/26/2020	18	1/28/2020	5
Day 8	3/27/2020	27	1/29/2020	5
Day 10	3/29/2020	38	1/31/2020	7
Day 11	3/30/2020	52	2/1/2020	8
Day 12	3/31/2020	59	2/2/2020	8
Day 13	4/1/2020	94	2/3/2020	11
Day 14	4/2/2020	114	2/4/2020	11
Day 15	4/3/2020	141	2/5/2020	11
Day 16	4/4/2020	174	2/6/2020	11
Day 17	4/5/2020	197	2/7/2020	11
Day 18	4/6/2020	259	2/8/2020	11
Day 19	4/7/2020	313	2/9/2020	11
Day 20	4/8/2020	377	2/10/2020	11
Day 21	4/9/2020	408	2/11/2020	12
Day 22	4/10/2020	481	2/12/2020	12
Day 23	4/11/2020	520	2/13/2020	13
Day 24	4/12/2020	541	2/14/2020	13
Day 25	4/13/2020	589	2/15/2020	13
Day 26	4/14/2020	694	2/16/2020	13
Day 27	4/15/2020	731	2/17/2020	13
Day 28	4/16/2020	752	2/18/2020	13
Day 29	4/17/2020	761	2/19/2020	13
Day 30	4/18/2020	784	2/20/2020	13
Day 31	4/19/2020	804	2/21/2020	13
Day 32	4/20/2020	816	2/22/2020	15
Day 33	4/21/2020	863	2/23/2020	15
Day 34	4/22/2020	908	2/24/2020	15
Day 35	4/23/2020	977	2/25/2020	15
Day 36	4/24/2020	985	2/26/2020	15
Day 37	4/25/2020	1047	2/27/2020	15
Day 38	4/26/2020	1118	2/28/2020	16
Day 39	4/27/2020	1376	2/29/2020	16

Day 40	4/28/2020	1649	3/1/2020	24
Day 41	4/29/2020	1877	3/2/2020	30
Day 42	4/30/2020	2041	3/3/2020	80
Day 43	5/1/2020	2185	3/4/2020	98
Day 44	5/2/2020	2268	3/5/2020	164
Day 45	5/3/2020	2276	3/6/2020	214
Day 46	5/4/2020	2340	3/7/2020	279
Day 47	5/5/2020	2425	3/8/2020	423
Day 48	5/6/2020	2465	3/9/2020	647
Day 49	5/7/2020	2890	3/10/2020	937
Day 50	5/8/2020	3330	3/11/2020	1215
Day 51	5/9/2020	3580	3/12/2020	1629
Day 52	5/10/2020	3319	3/13/2020	1896
Day 53	5/11/2020	3629	3/14/2020	2234
Day 54	5/12/2020	3096	3/15/2020	3487
Day 55	5/13/2020	3086	3/16/2020	4226
Day 56	5/14/2020	2594	3/17/2020	7038
Day 57	5/15/2020	2571	3/18/2020	10442
Day 58	5/16/2020	2563	3/19/2020	15219
Day 59	5/17/2020	2603	3/20/2020	18747
Day 60	5/18/2020	2534	3/21/2020	24583
Day 61	5/19/2020	2496	3/22/2020	33404

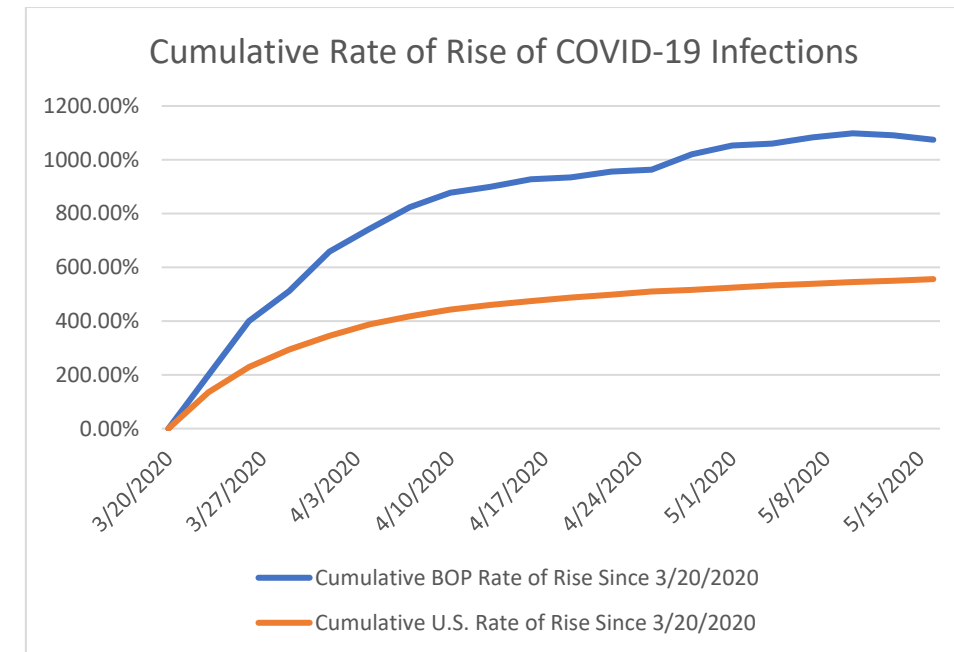
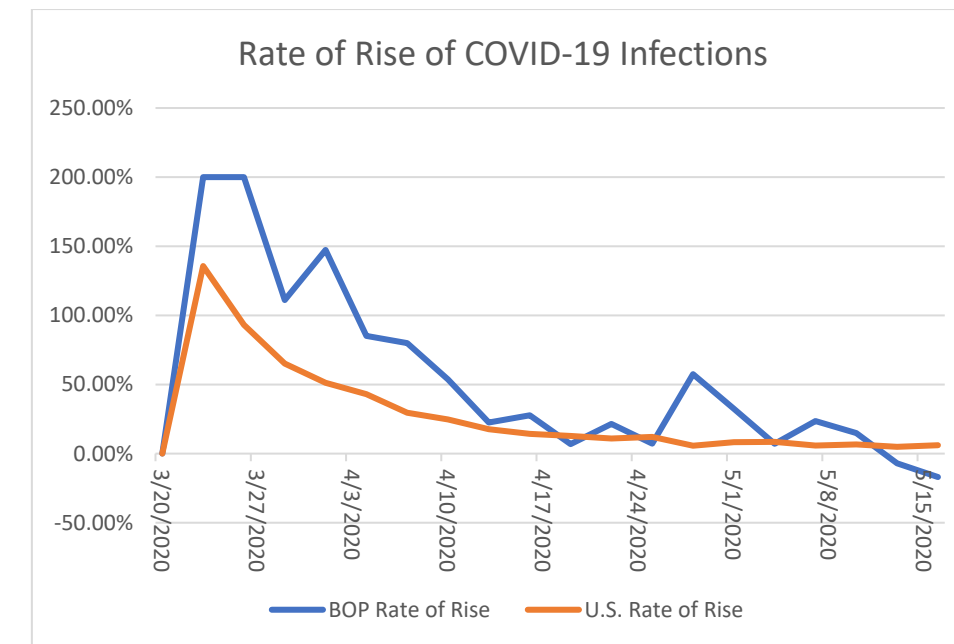


<sup>3</sup> Numbers obtained from [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) on a daily basis. There is good reason to believe that the numbers reported by the BOP understate the actual number of tested-positive cases. Compare M. Licon-Vitale, MCC Ward, and D. Edge, MDC Warden, *Response to EDNY Administrative Order 2020-14* (Apr. 7, 2020) at [https://www.nyed.uscourts.gov/pub/bop/MDC\\_20200407\\_042057.pdf](https://www.nyed.uscourts.gov/pub/bop/MDC_20200407_042057.pdf) (3 positive inmates at MDC Brooklyn) with *COVID-19 Cases* Federal Bureau of Prisons (Apr. 7, 2020) at [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) (2 positive inmates at MDC Brooklyn).

<sup>4</sup> Numbers obtained from <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

Rate of Rise of Reported COVID-19 Cases in Bureau of Prisons<sup>5</sup>  
and the United States<sup>6</sup>, Every 3 Days

Date	Number of BOP Cases	BOP Rate of Rise	Cumulative BOP Rate of Rise Since 3/20/2020	Number of National Cases	U.S. Rate of Rise	Cumulative U.S. Rate of Rise Since 3/20/2020
3/20/2020	2	0.00%	0.00%	18,747	0.00%	0.00%
3/23/2020	6	200.00%	200.00%	44,183	135.68%	135.68%
3/26/2020	18	200.00%	400.00%	85,356	93.19%	228.87%
3/29/2020	38	111.11%	511.11%	140,904	65.08%	293.95%
4/1/2020	94	147.37%	658.48%	213,144	51.27%	345.21%
4/4/2020	174	85.11%	743.59%	304,826	43.01%	388.23%
4/7/2020	313	79.89%	823.47%	395,011	29.59%	417.81%
4/10/2020	481	53.67%	877.15%	492,416	24.66%	442.47%
4/13/2020	589	22.45%	899.60%	579,005	17.58%	460.06%
4/16/2020	752	27.67%	927.27%	661,712	14.28%	474.34%
4/19/2020	804	6.91%	934.19%	746,625	12.83%	487.17%
4/22/2020	977	21.52%	955.70%	828,441	10.96%	498.13%
4/25/2020	1,047	7.16%	962.87%	928,619	12.09%	510.23%
4/28/2020	1,649	57.50%	1020.37%	981,246	5.67%	515.89%
5/1/2020	2,185	32.50%	1052.87%	1,062,446	8.28%	524.17%
5/4/2020	2,340	7.09%	1059.97%	1,152,372	8.46%	532.63%
5/7/2020	2,890	23.50%	1083.47%	1,219,066	5.79%	538.42%
5/10/2020	3,319	14.84%	1098.31%	1,300,696	6.70%	545.12%
5/13/2020	3,086	-7.02%	1091.29%	1,364,061	4.87%	549.99%
5/16/2020	2,563	-16.95%	1074.35%	1,446,196	6.02%	556.01%



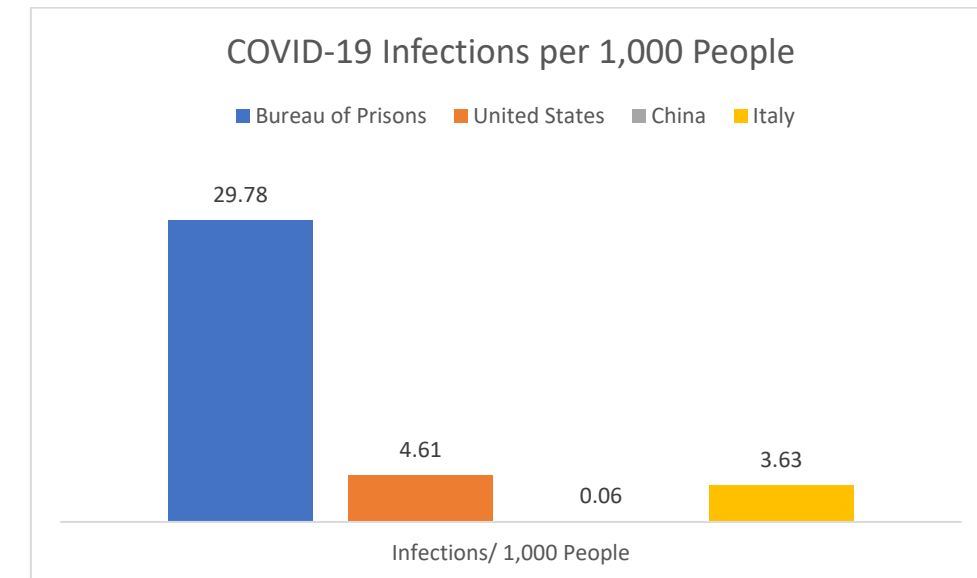
<sup>5</sup> Numbers obtained from [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) on a daily basis. There is good reason to believe that the numbers reported by the BOP understate the actual number of tested-positive cases. Compare M. Licon-Vitale, MCC Ward, and D. Edge, MDC Warden, *Response to EDNY Administrative Order 2020-14* (Apr. 7, 2020) at [https://www.nyed.uscourts.gov/pub/bop/MDC\\_20200407\\_042057.pdf](https://www.nyed.uscourts.gov/pub/bop/MDC_20200407_042057.pdf) (3 positive inmates at MDC Brooklyn) with *COVID-19 Cases Federal Bureau of Prisons* (Apr. 7, 2020) at [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) (2 positive inmates at MDC Brooklyn).

<sup>6</sup> Numbers obtained from <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

## COVID-19 Rate of Infection for Various Populations

Location	Cases	Population	Infections/ 1,000 People	Infection Rate as Percent of Population
BOP Imprisoned Population	4,464 <sup>7</sup>	149,897 <sup>8</sup>	29.78	2.9780%
United States	1,519,986 <sup>9</sup>	329,671,326 <sup>10</sup>	4.61	0.4611%
China	84,063 <sup>11</sup>	1,394,015,977 <sup>12</sup>	0.06	0.0060%
Italy	226,699 <sup>13</sup>	62,402,659 <sup>14</sup>	3.63	0.3633%

	BOP has an infection rate X times higher
Compared to the United States	6.459112
Compared to China	493.8489
Compared to Italy	8.197562



<sup>7</sup> Includes the number of BOP inmates who have tested positive for COVID-19, the number of BOP inmates who have recovered, and the number of BOP inmates who have died from COVID-19. Numbers obtained from [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) on a daily basis. There is good reason to believe that the numbers reported by the BOP understate the actual number of tested-positive cases. Compare M. Licon-Vitale, MCC Ward, and D. Edge, MDC Warden, *Response to EDNY Administrative Order 2020-14* (Apr. 7, 2020) at [https://www.nyed.uscourts.gov/pub/bop/MDC\\_20200407\\_042057.pdf](https://www.nyed.uscourts.gov/pub/bop/MDC_20200407_042057.pdf) (3 positive inmates at MDC Brooklyn) with *COVID-19 Cases* Federal Bureau of Prisons (Apr. 7, 2020) at [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) (2 positive inmates at MDC Brooklyn).

<sup>8</sup> Includes the number of federal inmates in BOP-managed institutions, the number of federal inmates in community-based facilities, and the number of federal inmates who have died from COVID-19. Numbers obtained from [www.bop.gov/coronavirus](http://www.bop.gov/coronavirus) on a daily basis.

<sup>9</sup> Numbers obtained on 5/19/2020 at 3:21pm from <https://coronavirus.jhu.edu/map.html>

<sup>10</sup> Numbers obtained on 5/19/2020 at 3:22pm from <https://www.census.gov/popclock/>

<sup>11</sup> Numbers obtained on 5/19/2020 at 3:21pm from <https://coronavirus.jhu.edu/map.html>

<sup>12</sup> Numbers obtained on 5/19/2020 at 3:22pm from <https://www.census.gov/popclock/>

<sup>13</sup> Numbers obtained on 5/19/2020 at 3:21pm from <https://coronavirus.jhu.edu/map.html>

<sup>14</sup> Numbers obtained on 5/19/2020 at 3:22pm from <https://www.census.gov/popclock/>